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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/868,766	06/21/2001	Masaru Watanabe	MOR-C077	6429

30132 7590 07/25/2003

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EXAMINER

VALENCIA, DANIEL E

ART UNIT	PAPER NUMBER
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2874

DATE MAILED: 07/25/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/868,766

Applicant(s)

WATANABE ET AL.

Examiner

Daniel E Valencia *DE*

Art Unit

2874

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 14 July 2003.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 11-22 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 11-16 and 20-22 is/are allowed.
- 6) ☒ Claim(s) 17-19 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                             | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____  |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)         | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other: _____                                    |

## DETAILED ACTION

This Office Action is in response to the communication filed July 14, 2003.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 17-19 are rejected under 35 U.S.C. 102(e) as being anticipated by Takeuchi U.S. Patent No. 5,841,926. Refer to the appropriate drawings or parts of the specification. Takeuchi discloses optical fibers for optical attenuation with all the limitations of the abovementioned claims. Regarding claim 17, Takeuchi discloses an optical attenuator (fig 7-11) in the form of a single mode optical fiber (col. 6, 25-26) lines for receiving an optical signal, attenuating the optical signal and outputting the attenuated optical signal, said optical attenuator comprising a core (1) containing a dopant (col. 7, lines 55-57) which attenuates the optical signal more when the wavelength is shorter, said dopant being contained only in a dopant area limited to a centermost portion of said core (col. 7, lines 47-49), said core comprising said centermost portion and a peripheral portion contiguous

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with said centermost portion (fig 7) and free of dopant, said core having a refractive index at said centermost portion greater than that of said peripheral portion (see profile in fig 7a), said optical fiber having a mode field for single mode transmission (col. 8, lines 8-11) of the optical signal exclusive of said centermost and peripheral portions of said core. Takeuchi's disclosure further shows that the refractive index profile is a square wave (fig 7a) and the cladding (2) surrounds that core and does not contain dopant (col. 7, line 64).

In the response, Applicant asserts that the claimed invention is distinct from the reference because the claim calls for "...attenuates the optical signal; more when wavelengths are shorter...". The response further states out that Takeuchi teaches that the attenuation is constant from shorter (1.31  $\mu\text{m}$ ) wavelengths to longer (1.55  $\mu\text{m}$ ) wavelengths and points to col. 7, line 62 of the reference for support.

However; col. 7, lines 56 and 57, states that "The cutoff wavelength was about 1.2  $\mu\text{m}$ ." This indicates that at wavelengths shorter than 1.2  $\mu\text{m}$  no light propagates (100% attenuation). Because Applicant's claim does not specify what is meant by "shorter wavelengths", the reference clearly meets the limitations of the claims.

### ***Allowable Subject Matter***

Claims 11-16 and 20-22 are still allowed.

For reasons for allowance of claims 11-16 and 20-22, see Paper No. 10, page 3.

***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Applicant's arguments filed July 14, 2003 have been fully considered but they are not persuasive. The arguments have been fully addressed in the § 102(e) rejection of claims 17-19. Examiner would be open to considering an After Final amendment that would clarify or distinguish the wavelength range referred to as "shorter" in claim 17.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Daniel E Valencia whose telephone number

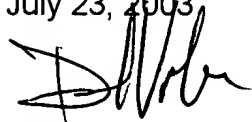
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is (703)-305-4399. The examiner can normally be reached on Monday-Friday 9:30-6:00.

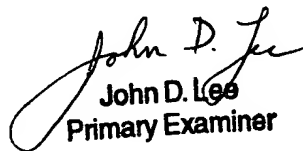
The fax phone numbers for the organization where this application or proceeding is assigned are (703)-308-7724 for regular communications and (703)-308-7724 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)-308-0956.

July 23, 2003



DEV



John D. Lee  
Primary Examiner